IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No. 618 of 1995

Date of decision : September 26, 2007.

Diwana Ram

.... Petitioner

versus

State of Punjab

.... Respondent

Coram : Hon'ble Mr. Justice A.N. Jindal

Present : Mr. Bipan Ghai, Advocate
for the petitioner.

Mr. Anter Singh Brar, DAG, Punjab
for the respondent.

A.N. JINDAL, J.

Accused-petitioner Diwana Ram (hereinafter referred to as 'the petitioner') was convicted under Sections 326/325 read with Section 34 IPC, while his co-accused (remaining accused) were acquitted vide judgment dated 22.7.1994 passed by the learned Sub Divisional Judicial Magistrate, Sunam. His appeal was also dismissed by the learned Additional Sessions Judge, Sangrur, vide its judgment dated 9.8.1995, however, the period of sentence was reduced from two years to one year under Section 326 IPC; from one year to six months under Section 325 IPC, without alteration in the sentence of fine, however, his sentence passed under Section 323 IPC was ordered to be maintained.

At the very outset, learned counsel for the petitioner has not assailed the order of conviction and has contended only that out of the 10 injuries on the person of Khan Chand son of Phuman Chand injured, four were bruises and one was swelling. The only grievous injury falling under Section 326 IPC is on the left index finger which could be self-suffered. It was further urged that the occurrence took place as back as in

the year 1989 and that the petitioner being the first offender having already suffered a lot of agony due to the protracted proceedings and having not repeated the offence be extended benefit of probation.

Having deliberated over the aforesaid contentions, since the sword of sentence remained hanging over the head of the petitioner since the year 1989 till date and he has already suffered a lot on account of the criminal proceedings pending against him, therefore, I do not find any justification to send him again in jail in the peculiar circumstances of the case and a lenient view deserves to be taken in his favour.

In view of the circumstances explained above, the petitioners are, therefore, ordered to be released on probation to keep peace and be of good behaviour for a period of one year on furnishing personal bonds in the sum of Rs.10,000/- with one surety in the like amount each under Section 4(1) of the Probation of Offenders Act, 1958, failing to comply with the terms of the bonds, they shall be ready to serve the sentence as and when called for. The petitioners are further directed to pay Rs.10,000/- each as compensation to the injured in addition to any other compensation received by him, within six months, failing which the judgment passed by the trial court will come into operation and this revision petition would be treated as dismissed.

With the above modification in the sentence, the revision petition fails and is hereby dismissed.

September 26, 2007 **(A.N. Jindal)**
'deepak' **Judge**

To be referred to reporter: Yes/No.